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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/810,374 | 03/15/2001 | Walter Winkler | 1020843-991180 | 8757 |

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| EXAMINER |
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FOX, CHARLES A

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| ART UNIT | PAPER NUMBER |
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3652

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/810,374

Applicant(s)

WINKLER, WALTER

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed, after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment B filed on February 24, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11&12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Information Disclosure Statement

The information disclosure statement filed December 23, 2002 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the references deal with wireless telephone technology and do not apply to the instant application. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

The Klebe reference in the information disclosure statement filed on December 12, 2002 has been lined through because that reference was listed on the PTO-892 of paper number 10.

Allowable Subject Matter

The indicated allowability of claims 12 and 14-16 is withdrawn in view of the newly discovered reference(s) to Becicka et al. U.S. 5,098,254. Rejections based on the newly cited reference(s) follow.

Claim Objections/Warnings

Applicant is advised that should claim 14 be found allowable, claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both

cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2-5,10-12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe in view of Becicka et al. In regards to claims 12 and 4 and Klebe US 4,331,418 teaches an apparatus for picking articles situated on retrieval pallets in a pallet rack, said apparatus comprising:

a vehicle (1) capable of traveling along the front of the pallet rack (R);
a first lifting device (24) for lifting a picker to a desired height;
a second lifting device (12) for carrying a pallet;
said first and second lifting devices are positionable heightwise relative to a ground position independently of one another; wherein
the lifting devices when viewed in plan view are opposite to one another. See figure 3.

Klebe does not teach a sensor for determining the degree of charging of the receiving pallet. Becicka et al. US 5,098,254 teach a sensor (62,64) used on a palletizing device (10) for determining the degree of charging of a pallet. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the sensor as taught by Becicka et al. on the apparatus taught by Klebe in order to determine the height of the pallets on the receiving pallet so that the pallet is properly loaded automatically.

In regards to claim 2 Klebe also teaches that the vehicle comprises a base (3) on which when viewed in a traveling direction has the first lift device on one end and the second lift device on a second end.

In regards to claim 3 Klebe further teaches that each lifting device comprises a vertical frame (18,22) along which the respective lifting devices (12,24) are vertically displaceable.

Regarding claim 5 Klebe further teaches that the vehicle (1) is mounted on rails (6 and 10).

In regards to claims 10 and 11 Klebe also teaches a load receiving means (21) for supporting a load receiving pallet at a right angle to the travel direction of the vehicle.

In regards to claims 14 and 15 Klebe teaches an apparatus for picking articles situated on retrieval pallets in a pallet rack, said apparatus comprising:

- a vehicle (1) capable of traveling along the front of the pallet rack (R);
- a first lifting device (24) for lifting a picker to a desired height;
- a second lifting device (12) for carrying a pallet;

said first and second lifting devices are positionable heightwise relative to a ground position independently of one another; wherein the lifting devices when viewed in plan view are opposite to one another. See figure 3.

Klebe does not teach a computer control or a sensor for his device. Becicka et al. teaches a sensor for a palletizing apparatus wherein the sensor inputs a signal to a control system (50) that allows the device to control the level of cartons placed upon a receiving pallet. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the sensing and control devices taught by Becicka et al. on the apparatus taught by Klebe in order to determine the height of the pallets on the receiving pallet so that the pallet is properly loaded automatically.

In regards to claim 16 Klebe further teaches that the height of the picker device and pallet carrying device are both adjustable as needed by the operator.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe in view of Becicka et al. as applied to claim 12 above, and further in view of Allen. Klebe in view of Becicka et al. teach the limitations of claim 12 as above, they do not teach a crash bar for protecting the operator. Allen US 4,439,102 teaches that the picker-carrying device (10) has a circumferential crash guard for the picker. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide a crash bar as taught by Allen on the device taught by Klebe in view of Becicka et al. in order to provide adequate protection to the operator during operation of the device.

Claims 7, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe in view of Becicka et al. as applied to claim 12 above, and further in view of Singer et al. Regarding claims 7 and 13 Klebe in view of Becicka et al. teach the limitations of claim 12 as above, they do not teach computer control of the picking operation. Singer et al. (US 5,953,234) teach a storage facility (3) with a semi automated inventory control and picking system (101) where the inventory is stored and retrieved by stacker retriever machines. See column 9 lines 31-38. Singer et al. also teach a order picking screen on a terminal that displays the picking positions for a product. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the control and feedback system taught by Singer et al. to the apparatus taught by Klebe in view of Becicka et al. in order to allow a picking lift to move to the proper location without operator input, allowing for flexible use of the storage space by allowing any available space to store any type of product, with a computer keeping track of locations of the various products.

Regarding claim 17 Klebe further teaches that the height of the picking and pallet lifts are manually adjustable in relationship to a rack and each other.

Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe in view of Becicka et al. as applied to claim 12 above, and further in view of Dammeyer et al. Klebe in view of Becicka et al. teach the limitations of claim 12 as above, they do not teach a dead man's switch or a standing seat. Dammeyer et al. (US 5,044,472) teaches an order picking apparatus with a standing seat (32) and a dead man's switch. See column 3 lines 19-26. It would have been obvious to one of ordinary

skill in the art, at the time of invention to add the seat and dead man's switch as taught by Dammeyer et al. to the device taught by Klebe in view of Becicka et al. as they are well know safety features on many types of apparatus, and would decrease the likelihood of the apparatus moving without a clear and present signal that the operator is in a safe position for movement of the vehicle.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe and Becicka et al. and Dammeyer et al. as applied to claim 8 above, and further in view of Singer et al. Klebe and Becicka et al. and Dammeyer et al. teach the limitations of claim 8 as above, they do not teach that the system is designed to acknowledge when a pick is finished. Singer et al. teach an input being used to inform a controller that a pick is finished, allowing the picker to be instructed where to report for the next pick. It would have been obvious to one of ordinary skill in the art, at the time of invention that a control system as taught by Singer et al. could be added to the apparatus taught by Klebe and Becicka et al. and Dammeyer et al. in order to route pickers to the closest next pick, thereby saving travel distance and time for the picker.

Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klebe in view of Becicka et al. as applied to claim 12 above, and further in view of Benjamin. Klebe in view of Becicka et al. teach the limitations of claim 12 as above, they do not teach the apparatus as moving in the horizontal and vertical direction at the same time, or an outside power source for the vehicle. Benjamin (US 4,252,217) teaches using an overhead power line (56) to power a picking device (10). Benjamin further teaches that the picker device (10) can have compound travel when moving from

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one location to another. It would have been obvious to one of ordinary skill in the art, at the time of invention to add the capabilities taught by Benjamin to the device taught by Klebe in view of Becicka et al. in order to improve the efficiency of the device and to eliminate the need to rely on battery power to drive the device, therein increasing the productivity of the device.

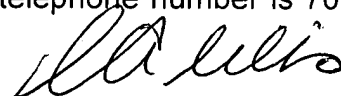
Response to Amendment

The amendments to the claims filed on February 24, 2003 have been entered into the record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

CAF

May 14, 2003

CAF 5-14-03